

HB3250



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3250

by Rep. Steven Andersson

SYNOPSIS AS INTRODUCED:

10 ILCS 5/10-10

from Ch. 46, par. 10-10

Amends the Election Code. Provides that nominating papers or petitions shall be considered valid provided that there was substantial compliance with the law and rules and no evidence of fraud.

LRB099 09332 MGM 29537 b

A BILL FOR

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Election Code is amended by changing Section
5 10-10 as follows:

6 (10 ILCS 5/10-10) (from Ch. 46, par. 10-10)

7 Sec. 10-10. Within 24 hours after the receipt of the
8 certificate of nomination or nomination papers or proposed
9 question of public policy, as the case may be, and the
10 objector's petition, the chairman of the electoral board other
11 than the State Board of Elections shall send a call by
12 registered or certified mail to each of the members of the
13 electoral board, and to the objector who filed the objector's
14 petition, and either to the candidate whose certificate of
15 nomination or nomination papers are objected to or to the
16 principal proponent or attorney for proponents of a question of
17 public policy, as the case may be, whose petitions are objected
18 to, and shall also cause the sheriff of the county or counties
19 in which such officers and persons reside to serve a copy of
20 such call upon each of such officers and persons, which call
21 shall set out the fact that the electoral board is required to
22 meet to hear and pass upon the objections to nominations made
23 for the office, designating it, and shall state the day, hour

1 and place at which the electoral board shall meet for the
2 purpose, which place shall be in the county court house in the
3 county in the case of the County Officers Electoral Board, the
4 Municipal Officers Electoral Board, the Township Officers
5 Electoral Board or the Education Officers Electoral Board,
6 except that the Municipal Officers Electoral Board, the
7 Township Officers Electoral Board, and the Education Officers
8 Electoral Board may meet at the location where the governing
9 body of the municipality, township, or community college
10 district, respectively, holds its regularly scheduled
11 meetings, if that location is available; provided that voter
12 records may be removed from the offices of an election
13 authority only at the discretion and under the supervision of
14 the election authority. In those cases where the State Board of
15 Elections is the electoral board designated under Section 10-9,
16 the chairman of the State Board of Elections shall, within 24
17 hours after the receipt of the certificate of nomination or
18 nomination papers or petitions for a proposed amendment to
19 Article IV of the Constitution or proposed statewide question
20 of public policy, send a call by registered or certified mail
21 to the objector who files the objector's petition, and either
22 to the candidate whose certificate of nomination or nomination
23 papers are objected to or to the principal proponent or
24 attorney for proponents of the proposed Constitutional
25 amendment or statewide question of public policy and shall
26 state the day, hour and place at which the electoral board

1 shall meet for the purpose, which place may be in the Capitol
2 Building or in the principal or permanent branch office of the
3 State Board. The day of the meeting shall not be less than 3
4 nor more than 5 days after the receipt of the certificate of
5 nomination or nomination papers and the objector's petition by
6 the chairman of the electoral board.

7 The electoral board shall have the power to administer
8 oaths and to subpoena and examine witnesses and, at the request
9 of either party and only upon a vote by a majority of its
10 members, may authorize the chairman to issue subpoenas
11 requiring the attendance of witnesses and subpoenas duces tecum
12 requiring the production of such books, papers, records and
13 documents as may be evidence of any matter under inquiry before
14 the electoral board, in the same manner as witnesses are
15 subpoenaed in the Circuit Court.

16 Service of such subpoenas shall be made by any sheriff or
17 other person in the same manner as in cases in such court and
18 the fees of such sheriff shall be the same as is provided by
19 law, and shall be paid by the objector or candidate who causes
20 the issuance of the subpoena. In case any person so served
21 shall knowingly neglect or refuse to obey any such subpoena, or
22 to testify, the electoral board shall at once file a petition
23 in the circuit court of the county in which such hearing is to
24 be heard, or has been attempted to be heard, setting forth the
25 facts, of such knowing refusal or neglect, and accompanying the
26 petition with a copy of the citation and the answer, if one has

1 been filed, together with a copy of the subpoena and the return
2 of service thereon, and shall apply for an order of court
3 requiring such person to attend and testify, and forthwith
4 produce books and papers, before the electoral board. Any
5 circuit court of the state, excluding the judge who is sitting
6 on the electoral board, upon such showing shall order such
7 person to appear and testify, and to forthwith produce such
8 books and papers, before the electoral board at a place to be
9 fixed by the court. If such person shall knowingly fail or
10 refuse to obey such order of the court without lawful excuse,
11 the court shall punish him or her by fine and imprisonment, as
12 the nature of the case may require and may be lawful in cases
13 of contempt of court.

14 The electoral board on the first day of its meeting shall
15 adopt rules of procedure for the introduction of evidence and
16 the presentation of arguments and may, in its discretion,
17 provide for the filing of briefs by the parties to the
18 objection or by other interested persons.

19 In the event of a State Electoral Board hearing on
20 objections to a petition for an amendment to Article IV of the
21 Constitution pursuant to Section 3 of Article XIV of the
22 Constitution, or to a petition for a question of public policy
23 to be submitted to the voters of the entire State, the
24 certificates of the county clerks and boards of election
25 commissioners showing the results of the random sample of
26 signatures on the petition shall be prima facie valid and

1 accurate, and shall be presumed to establish the number of
2 valid and invalid signatures on the petition sheets reviewed in
3 the random sample, as prescribed in Section 28-11 and 28-12 of
4 this Code. Either party, however, may introduce evidence at
5 such hearing to dispute the findings as to particular
6 signatures. In addition to the foregoing, in the absence of
7 competent evidence presented at such hearing by a party
8 substantially challenging the results of a random sample, or
9 showing a different result obtained by an additional sample,
10 this certificate of a county clerk or board of election
11 commissioners shall be presumed to establish the ratio of valid
12 to invalid signatures within the particular election
13 jurisdiction.

14 The electoral board shall take up the question as to
15 whether or not the certificate of nomination or nomination
16 papers or petitions are in proper form, and whether or not they
17 were filed within the time and under the conditions required by
18 law, and whether or not they are the genuine certificate of
19 nomination or nomination papers or petitions which they purport
20 to be, and whether or not in the case of the certificate of
21 nomination in question it represents accurately the decision of
22 the caucus or convention issuing it, and in general shall
23 decide whether or not the certificate of nomination or
24 nominating papers or petitions on file are valid or whether the
25 objections thereto should be sustained and the decision of a
26 majority of the electoral board shall be final subject to

1 judicial review as provided in Section 10-10.1. The electoral
2 board must state its findings in writing and must state in
3 writing which objections, if any, it has sustained. A copy of
4 the decision shall be served upon the parties to the
5 proceedings in open proceedings before the electoral board. If
6 a party does not appear for receipt of the decision, the
7 decision shall be deemed to have been served on the absent
8 party on the date when a copy of the decision is personally
9 delivered or on the date when a copy of the decision is
10 deposited in the United States mail, in a sealed envelope or
11 package, with postage prepaid, addressed to each party affected
12 by the decision or to such party's attorney of record, if any,
13 at the address on record for such person in the files of the
14 electoral board.

15 Notwithstanding any provision of law to the contrary,
16 nominating papers or petitions shall be considered valid
17 provided that there was substantial compliance with the law and
18 rules and no evidence of fraud.

19 Upon the expiration of the period within which a proceeding
20 for judicial review must be commenced under Section 10-10.1,
21 the electoral board shall, unless a proceeding for judicial
22 review has been commenced within such period, transmit, by
23 registered or certified mail, a certified copy of its ruling,
24 together with the original certificate of nomination or
25 nomination papers or petitions and the original objector's
26 petition, to the officer or board with whom the certificate of

1 nomination or nomination papers or petitions, as objected to,
2 were on file, and such officer or board shall abide by and
3 comply with the ruling so made to all intents and purposes.

4 (Source: P.A. 98-115, eff. 7-29-13; 98-691, eff. 7-1-14;
5 revised 11-25-14.)